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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/935,865 09/23/97 DAY

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EXAMINER

NGHIEM, M

ART UNIT

PAPER NUMBER

2861

Handwritten number 8

DATE MAILED: 08/27/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/935,865

Applicant(s)
Day et al.

Examiner
Michael Nghiem

Group Art Unit
2861



☒ Responsive to communication(s) filed on Jun 17, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-39 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-39 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

The amendments filed on June 17, 1999 has been acknowledged.

The amendment to claim 11, "line 3, change 'an' to -- the --" is incorrect.

Specification

1. A substitute specification excluding claims is required pursuant to 37 CFR 1.125 (a) because the numerous amendments presented in the September 23, 1997 preliminary amendment place a burden upon the PTO support staff and with such numerous amendments the chance of occurrence of errors at the time of printing is great.

The substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125 (b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

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Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, the detecting means does not detect the movement of **the ink ribbon**.

Claim 1, the characteristic indicative of the movement of the ink ribbon is unclear.

Claims 1, 2, 37-39, the image receiving tape and the thermally sensitive image receiving tape are the same.

Claim 25, the ink ribbon and the image receiving tape received in the same cassette is misdescriptive.

Claims 17, 19, 31, 34, the markings are not detectable. Is applicant referring to detecting the light reflected from the marking (70)?

Claim 37, the image receiving tape following two paths is misdescriptive.

Claims 28, 29, 38, the characteristic indicative of power is unclear.

Claim 39, there is no detection of load applied to the driving means.

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The remaining claims are also rejected under 35 U.S.C. 112, second paragraph, for being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7-10, 21, and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (UK 2-194-487 A) in view of Minowa (5,183,333).

Suzuki discloses a thermal printing apparatus comprising:

- * a thermal print head (#320, Fig. 18) for printing an image on said image receiving tape, said print head having a first mode of operation and a second mode of operation (Abstract)
- * receiving means (combination of platen roller 322 and frame 315 having engaging notches 316; fig. 18) for receiving in the first mode of operation a supply of image receiving tape and a supply of ink ribbon (#311, Fig. 18) for providing an image on said image receiving tape, and in the

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second mode of operation a supply of thermally sensitive image receiving tape (heat sensitive paper discussed at p.6, 11113)

- * driving means for driving said ink ribbon (page 5, 115 8-64)

- * control means (page 8, 1144) for controlling said thermal print head

- * detecting means (page 8, 1142) for detecting if an ink ribbon is present or absent in said receiving means and for providing a signal (page 8, claim 2) to said control means indicative of the presence or absence of the ink ribbon, said control means being arranged to control said thermal print head to operate in said first mode of operation when an ink ribbon is present and said second mode of operation when no ink ribbon is present (Abstract), wherein said detecting means (#319, Fig. 18) is arranged to detect, when said driving means is activated (page 5, 1158-64), a characteristic indicative of movement of said ink ribbon to determine if an ink ribbon is present,

- * said detecting means is arranged to determine if ink ribbon is present along a portion of an ink ribbon path (#319, Fig. 18),

- * said detecting means comprises a first emitting element (Page 7, 1154-58) and a second detecting element (Page 7, 1158-63), wherein the first emitting element is arranged to emit a signal which interacts with said ink ribbon when present and said detecting element, depending on whether or not ink ribbon is present, either receives or does not receive the signal emitted by the emitting element

- * driving means (page 5, 115 8 -64) are provided for driving said ink ribbon and the detecting means (#319, Fig.18) is arranged to detect, when said driving means is activated, a characteristic

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indicative of movement of said ink ribbon to thereby determine if an ink ribbon is present (Page 5, 115 8-64)

- * said ink ribbon is mounted on a rotatable support member (93, Fig.2)

- * said housing is provided with an opening (#319, Fig. 18) through which said markings are detectable

However, Suzaki does not teach the following:

- * cutting means for separating a printed label from the supply of image receiving tape

Meanwhile, Minowa teaches the following:

- * a tape cutter is preferably positioned near tape exit 16 (col. 5, 116-7)

Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention was made to modify the invention taught by Suzaki to incorporate the teaching of having a cutter means for separating a printed label from the supply of image receiving tape.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (US 5,809,358).

Weber teaches the claimed invention including:

- * a cassette (111) comprising a housing (Fig. 6a) in which a reel (127) holding a supply of tape is arranged, said reel being rotatable with respect to said housing and having a plurality of markings

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(133-147) thereon, said housing being arranged so that said markings are detectable by detecting means (151) external to said cassette to provide information relating to rotation of said reel (suggested by Abstract, lines 15-20, and rotation sensor 36, Fig. 4).

Allowable Subject Matter

4. Claims 3-6, 11-20, 22, 28-30, and 32-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 37-39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed on June 17, 1999 have been fully considered but they are not persuasive.

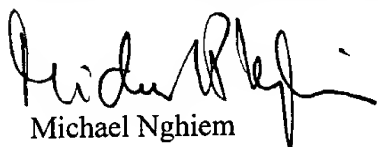
With respect to the 35 USC 103 rejections, applicants argue that the cited references do not teach a detecting means detecting a characteristic indicative of movement of the ink ribbon.

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Examiner's position is that the detecting means does not detect a movement of the ink ribbon as recited in claim 1. Claim 2 does not recite a detecting means detecting a characteristic indicative of movement of the ink ribbon.

Applicants' arguments with respect to claims 21 and 31-35 are addressed in the above office action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. An inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-0956.



Michael Nghiem

August 24, 1999



N. Le
Supervisory Patent Examiner
Technology Center 2800